

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

BMO HARRIS BANK, N.A.

PLAINTIFF

v.

Civil No. 4:17-cv-04096

UNIQUE FREIGHT SYSTEMS, INC. and
KENNETH DOUGAN

DEFENDANTS

ORDER

Before the Court is Defendants' Motion to Compel Discovery from Plaintiff BMO Harris Bank N.A. ECF No. 12. Defendants filed this Motion on July 9, 2018. *Id.* On July 20, 2018, Plaintiff responded. ECF No. 13. Pursuant to the provisions of 28 U.S.C. § 636(b)(1) and (3) (2009), the Honorable Susan O. Hickey referred this Motion to this Court. After considering this Motion and the response, the Court finds it should be **DENIED** because Defendants did not comply with Local Rule 7.2(g) prior to filing this Motion.

Local Rule 7.2(g) requires "[a]ll motions to compel discovery and all other discovery-enforcement motions and all motions for protective orders *shall contain a statement by the moving party that the parties have conferred in good faith on the specific issue or issues in dispute* and that they are not able to resolve their disagreements without the intervention of the Court." (emphasis added). Local Rule 7.2(g) further provides the following: "If any such motion lacks such a statement, that motion may be dismissed summarily for failure to comply with this rule."

In an attempt to comply with Local Rule 7.2(g), Defendants attached correspondence between their counsel and Plaintiff's counsel. The correspondence reflects there was a discovery dispute, and Plaintiff planned to remedy that dispute by supplying supplemental discovery responses. That correspondence reflects that on May 18, 2018, Plaintiff's counsel stated he intended to provide the

supplemental discovery “[h]opefully in the next week or so.” ECF No. 12-9. Thereafter, Plaintiff provided Defendants with its supplemental discovery on May 24, 2018. ECF No. 12-10. According to Plaintiff’s counsel, after that supplemental discovery was supplied, counsel was given no notice that the discovery was deficient or that there was *still* an ongoing “discovery dispute.” Despite giving Plaintiff’s counsel no notice of an ongoing dispute, on July 12, 2018, Defendants filed the present Motion.

Therefore, based upon these facts, and because Defendants failed to comply with Local Rule 7.2(g) prior to filing this Motion, this Motion (ECF No. 12) is **DENIED**. Counsel for both parties are directed to confer either in person or by phone regarding any outstanding discovery dispute **PRIOR** to filing any future motion to compel.

ENTERED this **6th day of August 2018**.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
U.S. MAGISTRATE JUDGE